

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
NO. 5:11-CR-134-BO

UNITED STATES OF AMERICA

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v.

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CHRIS DOLAN ASTROP

ORDER

This matter is before the Court on petitioner's pro se motion for return of property [DE 51]. The government has responded to the motion. For the reasons stated herein, the petitioner's motion is DENIED.

BACKGROUND

Petitioner mailed a handwritten letter to the Court dated March 3, 2013 in which he asks for the return of a cell phone and keys which he alleges were taken from him by members of the Marshalls Task Force. Astrop pled guilty and was sentenced by this Court on August 20, 2012. He remains incarcerated.


DISCUSSION

The government responded to Astrop's motion by detailing what they did with his property. Although there are no records indicating what property it possessed, the government provided evidence that it shipped Astrop's personal property to a Chiquita Shields in Winston-Salem, NC on September 24, 2012. The government attempted, but failed, to contact Ms. Shields. Where no property remains in the government's possession, a motion for return of property should be denied. *Arispe v. United States*, 2005 WL 3132211 at *5-6 (E.D. Mich. Nov. 21, 2005) (citing *United States v. Francis*, 646 F.2d 251, 263 (6th Cir. 1981)).

It appears to the Court that all of the petitioner's property was returned by the United States Marshall to the petitioner's designee. Petitioner has not disputed this assertion. Accordingly, there is no relief due petitioner and his motion is DENIED.

SO ORDERED,

this 29 day of October, 2013.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE